

**Stow Conservation Commission
Minutes
April 5, 2022**

A meeting of the Stow Conservation Commission was held on April 5, 2022 at 7:30 in the evening remotely VIA Zoom Videoconferencing in accordance with the Governors' Executive Order on Remote Meeting participation.

There were present: Serena Furman, Chair
Matt Styckiewicz, Vice Chair
Jeff Saunders
Liza Mattison
Holly Clack
Doug Morse

Absent: Ingeborg Hegemann Clark

Also Present: Kathy Sferra, Conservation Director
Jacquie Goring, Conservation Assistant
Tom Porcher, Associate Member

Serena Furman called the meeting to order at 7:30 pm.

Minutes

Jeff Saunders moved to approve the minutes of March 15, 2022 as amended. Matt Styckiewicz seconded and the motion was approved unanimously (5-0) on a roll call vote.

Doug Morse arrived at 7:33 PM.

Staff and Commission Member Updates

- Sferra noted that the Commission has already voted to accept the deed for the Joanne Drive Open Space but will request that Commission members come sign the deed when ready. Sferra confirmed that the debris has been removed from the Open Space. Sferra also noted that the builder will be providing a bond to the Planning Board that includes funds to cover the cost of corner monumentation.
- Liza Mattison and Holly Clack have completed their Massachusetts Association of Conservation Commissions Fundamentals Training.
- The Select Board approved the American Rescue Plan Act request for funds for Community Garden improvements and building a boardwalk at the Kunelius property connecting Captain Sargent Conservation Area and Red Acre Woodlands.

Notice of Intent – Ronald and Maria Vachon – 6 Davis Road – Serena Furman read the hearing notice. Property owners Ronald Vachon and his wife, and representative Steve Poole of Lakeview Engineering

were present. Poole reviewed the proposed work which includes constructing a five foot wide concrete walkway from the existing driveway to the back of the house, a paver patio, second story deck and stairs. The proposed walkway will be approximately 45 feet long and will incorporate the existing wooden steps and railing. The proposed paver patio will be constructed at the same elevation as the existing deck. Poole noted that the homeowner has a disability and needs a relatively level area to access behind the house. The second story deck will be constructed above the existing deck with a stairway on the opposite side of the house as the proposed walkway. Poole noted that a third of the existing deck is within the 35' no disturb buffer which is already disturbed with a series of retaining walls. All of the proposed work is within the 100' buffer to Lake Boon. Poole stated that minimal excavation will be needed to take out the top soil and replace it with a dense grade base for the walkway and patio. The supports for the upper deck will go through the lower deck. Poole stated staked straw wattle is proposed for erosion controls around the work area.

Matt Styckiewicz, Holly Clack, and Jacquie Goring visited the property. Styckiewicz shared photos from the visit and the area proposed for the walkway, patio, upper deck and stairs. Styckiewicz described the location of the 35' no disturb buffer and the proposed planting areas. Styckiewicz noted that the application did not include the number of plants or species. Poole confirmed that the existing timber steps will remain. Poole added that concrete will be used for the walkway for stability because pavers can shift due to frost. The Commission asked if the walkway will increase runoff to the lake and if mitigation measures are needed. Poole stated that the walkway will be sloped to the side to pitch runoff to the grass. Poole confirmed that some of the existing deck boards will be removed to excavate sonotubes by hand for the upper deck.

The Commission asked for pervious and impervious surface calculations for pre and post construction. Poole stated that he does not have the calculations on the plan but approximately 240 square feet of impervious area is proposed, mostly outside the 35' no disturb buffer. Poole added that two concrete steps will be installed halfway down the walkway. The Commission discussed the plant list and stated that native species should be used within the 35' no disturb buffer. Sferra noted that the plan shows silt fence and Poole stated straw wattle would be used. Poole clarified that straw wattle and silt fence are proposed. The Commission asked for the square footage of the proposed planting area. Poole stated he did not know. Styckiewicz stated that the applicant is happy to plant native plants and would like to fill in the proposed planting area. The majority of the proposed planting area is within the 35' no disturb buffer.

Poole confirmed that the applicant has been working to remove the knotweed on the slope. Vachon stated that he has a knotweed permit and has been cutting and treating the knotweed for about a year and a half on his property. The Commission discussed the proposed bleeding hearts and phlox and Vachon stated they are listed as native on Mass Audubon's website. Goring noted the planting area is shaded and will need shade tolerant species. Morse added that there are not a lot of perennial low lying native plants outside of wetland species. Vachon stated that all of the plants included in the planting list are native and pollinator plants. Morse noted that all the plants included on the planting list are common in this area.

Sferra noted that DEP has not issued a file number therefore the hearing cannot be closed. Poole agreed to a continuance and asked that a draft Order be available for the next meeting. *Matt Styckiewicz moved to continue the hearing to April 19, 2022 at or after 7:30PM. Jeff Saunders seconded and the motion was approved unanimously (6-0) on a roll call vote.*

Appointment – Daniel Padien and Christine Hopps – DEP Waterways Program – Daniel Padien and Christine Hopps of the DEP Waterways program were present to discuss Chapter 91 requirements for Lake Boon. Padien and Hopps reviewed the two types of licensing for homeowners including the general license certification WW24 and the simplified license application WW06. Hopps addressed the Commission's question regarding the licensing requirement that docks be 25 feet from property lines. Hopps stated that the requirement is 25 feet where feasible and that the Waterways Program weighs more heavily potential impacts. They do not want someone removing an existing dock and create more impacts to the bank to move the dock to meet the setback. Hopps added that licensing is always on a case-by-case basis and they will reach out to the Conservation Commission regarding impacts. Hopps confirmed that all applications require public notification including a copy of the plan and application to the Conservation Commission. Padien added that they will not start the process until a Notice of Intent has been filed and will not issue without an Order of Conditions or a negative Request for Determination of Applicability.

Sferra noted that in the past the Commission believed that Chapter 91 was not required on Lake Boon because it was a pond that was expanded by impoundment and the expanded impoundment was thought to be private. Recent trainings attended by the Commission indicated that was not the position of the Waterways Program. Sferra added that the Commission is struggling with when to require or recommend an applicant file for a Chapter 91 license. Hopps stated that the Waterways program does not want the burden to be on local agencies and the Commission can decide on when it is appropriate. Padien added that the Waterways Program does have enforcement abilities but requested the Commission include a condition about engaging with the Waterways program in Orders of Conditions.

Padien confirmed there are 25 licenses for Lake Boon. Sferra requested a copy of the list as the Commission only has record of three or four. Hopps confirmed she can provide the list but noted that a license is only valid if it is recorded to the chain of title. Hopps clarified that the Waterways Program jurisdiction is to high water and there is no length fee associated with licensing the first 25 feet. This allows for the discrepancy of ownership on impounded ponds without having to do title research. Hopps confirmed that licenses are transferable between property owners and reviewed the various terms of each licensing type. Hopps confirmed that any structure or fill beyond high water including docks, revetments, piers, and floats that are seasonal or year-round require authorization.

The Commission asked if docks that run parallel to the shoreline are licensable. Hopps stated that their regulations prohibit any non water dependent structures and floating decks would not be approvable. Hopps also confirmed a swimming raft requires a permit but is approvable as a water dependent use. Hopps added that they look to ensure docks are the minimum size necessary while functional for the intended use.

Padien confirmed that signage is required stating that a licensed structure is allowed on the waters of the Commonwealth and public access needs to be provided along the shoreline. Licenses now require a sign at either end of the obstruction so someone walking along the shoreline may pass. Hopps stated that the public can contact the Waterways Program by emailing dep.waterways@mass.gov and to include the address in the subject line so the email can be directed to the right place. Hopps added that if someone does not have a license the Commission can send them to the Waterways program website but do not have to remove the dock unless it has a significant impact to navigation or abutting properties.

Hopps confirmed that any general license certificate structure must be seasonal, and if it is not a simplified license would be needed. Hopps also confirmed that general license certificates are only for one structure and a simplified license would be needed for multiple structures which are reviewed to confirm is the minimum necessary for water dependent uses. Hopps added that abutters are notified as part of the public notification process and they work with applicants to be sure the structure is appropriate for the area rather than deny an application. Hopps stated that in the case of rights of way for water access, applications required owner signature or evidence of legal authority to apply and they work to site structures so that everyone has access. Hopps confirmed she would provide written responses to the questions submitted in advance and encouraged the Commission to direct applicants to the Waterways program email address. Hopps confirmed that the DEP guidance for small docks and piers is a guidance document that can be used for design but is not required or the Waterways Program regulation standard. The Commission thanked Padien and Hopps for attending their meeting.

Appointment – Red Aylward – Lake Boon Commission – Red Aylward of the Lake Boon Commission (LBC) and Dominic Meringolo of Solitude Lake Management were present. Aylward noted that the LBC will be working with Solitude again this year and will be starting their 2022 weed treatment this month using the same two herbicides used previously. Aylward added that Meringolo will review the 2021 weed treatment and the plans for 2022. Solitude is working with the Healthy Lake Boon group to determine better and more cost effective treatment.

Meringolo reviewed a presentation on the 2021 weed treatment and survey and the proposed treatment for 2022. In 2021 curly leaf pondweed, milfoil, and fanwort were treated using 44 gallons of diquat over 30 acres. During the 2021 survey, significant expansion of fanwort in basins 3 and 4 and coves of basin 2 were observed. Due to the increase, fanwort will be treated using sonar fluridone in 2022. Meringolo explained how Solitude is working with the Healthy Lake Boon group to incorporate the data and modeling to evaluate the invasive plant management on the lake. Meringolo reviewed the 2022 plan including more sample points and earlier treatment to target plants as they are actively growing.

The Commission noted their concerns about the proposed subdivision in Hudson on the lake and concerns about nutrient loading, septic systems, and buffers. Aylward noted that the LBC has been providing comments and working with the developer regarding protection of the health of the lake. Sferra requested a copy of the annual report from Solitude and offered to facilitate additional signage

at the boat ramp which could be the source of new weeds. Meringolo stated that he will bring up the boat ramp at the next Healthy Lake Boon meeting. *Jeff Saunders moved to approve the 2022 Lake Boon weed treatment. Holly Clack seconded and the motion was approved unanimously (6-0) on a roll call vote.*

Serena Furman recused herself at 9:03 PM. Matt Styckiewicz acted as chair.

Request for Certificate of Compliance – 8 Davis Road – Property owner Andrew Borg was present. Matt Styckiewicz visited the property and reviewed the approved plan, as-built plan, and photos from the visit. Styckiewicz noted that the plantings appeared to meet or exceed the approved planting plan and confirmed with Borg they were planted in August 2021. Styckiewicz also noted that some of the approved paver areas were reduced. Propane tanks and an air conditioning unit were observed during the site visit that were not included on the approve plans. No knotweed was observed on the property during the site visit.

Styckiewicz noted that the constructed wooden walkway at the shoreline does not match the approved plan. Styckiewicz reviewed the history of the walkway that was needed to access the dock which was required to be placed in the center of the shoreline by the Chapter 91 license. Styckiewicz stated that the walkway was constructed considerably larger than approved, all within the 35' no disturb buffer in an area proposed to be planted with native species. Styckiewicz stated that the width of the walkway is much less wide then shown on the as-built and was expanded to allow for more space when someone is coming down the steps. Styckiewicz added there would have been limited space left for plantings even if the walkway was constructed as approved.

Styckiewicz stated that he doesn't know if there is a benefit to removing the walkway and constructing it as approved and suggested that additional plantings could be planted elsewhere. The Commission reviewed the photos and plans and discussed various locations for additional plantings including a bare area where Borg has planted a wetland seed mix which could be supplemented with more shrubs. The Commission noted that they wished the change to the walkway was brought to them prior to it being constructed. The Commission also discussed the Request to issue a Certificate of Compliance (COC) when the condition for the plantings to survive a year has not been met and expressed concerns about precedent. Borg confirmed there is no rush, but he would like to close out the project. Sferra recommended the COC request be reviewed again after the year deadline has passed and allow time for Borg to plant any additional plants to offset the expanded walkway. Sferra added that if the COC was urgent, she would recommend that the Commission at least wait until later in the spring to confirm the plants survived the winter.

The Commission came to a consensus that the Request for COC should wait until September. The Commission noted that the erosion controls had been removed and should be replaced on either side of the retaining walls where the areas are not stabilized. Borg noted one side is not on his property and the other side he used a wetland seed mix. The Commission suggested to see what comes up this spring before requiring additional plantings. Borg noted concerns about waves coming up over the wall rather than erosion occurring down the slope. The Commission agreed to wait on a decision on the

COC request until the fall. Borg confirmed he would reach out in June to update the Commission on the status of the plants. The Commission requested Borg install erosion controls.

Serena Furman returned at 9:35 PM.

Staff and Commission Member Updates – Continued

- Interviews for the Seasonal Trail Steward Position went well and Assistant Town Administrator and Human Resource Director Dolores Hamilton will reach out to two of the candidates and make offers contingent on reference and background checks.
- All parties have signed off on the agreement for the survey for the boundary dispute at the Kalousdian property. The surveyor has been notified to get started and has 60 days to complete the work.
- Jeff Saunders agreed to take the lead on the Notice filed for a pond leveler at 33 Walcott Street and Styckiewicz will take the lead on the Notice filed for Whelden Pond berm repairs.

Matt Styckiewicz left the meeting at 9:38 PM.

- Sferra noted that the Commission received a Request for COC for 8 Shore Avenue but an as-built is still needed.
- Commission members can send edits to the 6 Davis Road decision to Sferra.

At 9:45 PM, Doug Morse moved to adjourn, Holly Clack seconded and the motion was approved unanimously (5-0) on a roll call vote.

Respectfully submitted,

Jacquelyn Goring, Conservation Assistant

Materials Used at Meeting

Meeting Packet

6 Davis site visit photos

Solitude Lake Boon Weed Treatment Presentation

8 Davis site visit photos